

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. _____
v.	:	DATE FILED: _____
EHAB DARWISH,	:	VIOLATIONS:
a/k/a “Abe,”	:	21 U.S.C. § 846 (conspiracy to distribute
a/k/a “Ihab Darwish,”	:	controlled substances - 2 counts)
a/k/a “Oscar,”	:	21 U.S.C. § 841(a)(1) (distribution of
WAEAL MASAD	:	controlled substances - 2 counts)
	:	18 U.S.C. § 924(c) (using and carrying a
	:	firearm during and in relation to a drug
	:	trafficking crime- 1 count)
	:	18 U.S.C. § 922(j) (receiving stolen firearms
	:	in interstate commerce - 1 count)
	:	18 U.S.C. § 922(k) (possession of firearms
	:	with obliterated serial numbers - 1 count)
	:	18 U.S.C. § 922(a)(1)(A) (dealing in
	:	firearms without a license - 1 count)
	:	18 U.S.C. § 2 (aiding and abetting)
	:	Notices of forfeiture
	:	
	:	<u>UNDER SEAL</u>

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

Introduction

At all times material to this indictment:

Controlled Substances Act

1. The Controlled Substances Act, 21 U.S.C. §§ 801-971, governed the manufacture, distribution, and dispensing of controlled substances in the United States.

2. Various prescription drugs were scheduled substances under the Controlled Substances Act. There are five schedules of controlled substances – Schedules I, II, III, IV, and V. Drugs were scheduled into these levels based on their potential for abuse, among other things. Abuse of Schedule II drugs may lead to severe psychological or physical dependence. 21 U.S.C. § 812(b)(2).

3. Oxycodone, a narcotic, was classified under federal narcotics laws as a Schedule II controlled substance. 21 C.F.R. § 1308.12(b)(1)(15). OxyContin® and Percocet® were prescription drugs which contained oxycodone, and were therefore classified as Schedule II controlled substances.

The Conspiracy

4. From in or about July 2003, to in or about September 2005, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**EHAB DARWISH,
a/k/a “Abe,”
a/k/a “Ihab Darwish,”
a/k/a “Oscar,”**

conspired and agreed, together with Joseph Malkowski, charged elsewhere, and others known and unknown to the grand jury, to knowingly and intentionally distribute detectable amounts of oxycodone, that is, approximately 10,400 tablets of OxyContin and Percocet, Schedule II controlled substances, in violation of Title 21, United States Code, Section 841(a)(1).

MANNER AND MEANS

It was part of the conspiracy that:

5. Defendant EHAB DARWISH obtained OxyContin and Percocet tablets, Schedule II controlled substances, in bulk from persons known and unknown to the grand jury, for the purpose of selling and distributing the tablets for profit.

OVERT ACTS

1. Joseph Malkowski sold the OxyContin and Percocet tablets he received from defendant EHAB DARWISH in Philadelphia for profit. Malkowski then purchased additional OxyContin and Percocet tablets from defendant DARWISH for resale in the streets.

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 3 set forth in Count One of this indictment are realleged here.

2. From on or about May 30, 2006, to on or about May 1, 2007 in Philadelphia, in the Eastern District of Pennsylvania, defendants

**EHAB DARWISH,
a/k/a "Abe,"
a/k/a "Thab Darwish,"
a/k/a "Oscar," and
WAEAL MASAD**

conspired and agreed, together and with others known and unknown to the grand jury, to knowingly and intentionally distribute a mixture and substance containing a detectable amount of controlled substance, that is, oxycodone (e.g., OxyContin and Percocet), Schedule II controlled substances, in violation of Title 21, United States Code, Section 841(a)(1).

MANNER AND MEANS

It was part of the conspiracy that:

3. Defendant EHAB DARWISH received contraband cigarettes in exchange for tablets containing oxycodone.

4. Beginning in or about July 2003, to in or about September 2005, defendant EHAB DARWISH met approximately once per week with Joseph Malkowksi at various locations in Philadelphia, including, but not limited to the back room of Leandro's Pizza Shop, located at 4659 Frankford Avenue in Philadelphia, Pennsylvania, where defendant DARWISH sold Malkowski between 100 and 250 tablets of OxyContin and Percocet tablets each

time.

5. Defendant WAEAL MASAD provided the tablets containing oxycodone to a person known to the grand jury by dispensing them from his Good Humor ice-cream truck on behalf of defendant EHAB DARWISH.

OVERT ACTS

In furtherance of the conspiracy, defendants EHAB DARWISH and WAEAL MASAD committed the following overt acts, among others in the Eastern District of Pennsylvania:

1. On or about April 30, 2006, defendant EHAB DARWISH made arrangements with an undercover federal agent to meet the next day and to exchange contraband cigarettes for tablets containing oxycodone, a Schedule II controlled substance.

On or about May 1, 2006:

2. Defendant EHAB DARWISH drove a blue Geo Prizm to the Pet Smart parking lot, located at the 7500 block of Horrocks Street in Philadelphia, Pennsylvania, where he met with the undercover agent.

3. Prior to making any exchanges, defendant EHAB DARWISH drove around the area several times, while the undercover agent waited in a van in the Pet Smart parking lot.

4. After a short time, defendant EHAB DARWISH contacted the undercover agent using a Nextel telephone and instructed him to move his van from the agent's location to the rear area of the Pet Smart parking lot.

5. Defendant EHAB DARWISH drove the blue Geo Prizm to the rear of the

Pet Smart parking lot and parked his vehicle next to the van operated by the undercover agent.

6. Defendant EHAB DARWISH received 33 cartons of contraband cigarettes from the undercover agent and informed the undercover agent that defendant DARWISH's cousin would be there any minute to provide the tablets containing oxycodone.

7. A few minutes later, defendant WAEAL MASAD arrived in the Pet Smart parking lot driving a Good Humor ice-cream truck.

8. After defendant EHAB DARWISH received the 33 cartons of contraband cigarettes, defendant WAEAL MASAD moved his ice-cream truck next to defendant EHAB DARWISH's vehicle, and from the window of the ice-cream truck, provided the undercover agent with approximately ten 80 milligram tablets of OxyContin.

All in violation of Title 21, United States Code, Section 846.

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 3 set forth in Count One of this indictment are realleged here.

2. On or about April 20, 2006, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**EHAB DARWISH,
a/k/a “Abe,”
a/k/a “Thab Darwish,”
a/k/a “Oscar,”**

knowingly and intentionally distributed, and aided and abetted the distribution of, a mixture and substance containing a detectable amount of oxycodone (OxyContin), a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

COUNT FOUR

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 3 set forth in Count One of this indictment are realleged here.

2. On or about May 1, 2006, in Philadelphia, in the Eastern District of Pennsylvania, defendants

**EHAB DARWISH,
a/k/a “Abe,”
a/k/a “Thab Darwish,”
a/k/a “Oscar,” and
WAEAL MASAD**

knowingly and intentionally distributed, and aided and abetted the distribution of, a mixture and substance containing a detectable amount of oxycodone (OxyContin), a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

COUNT FIVE

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. On January 29, 2005, Joseph Wojtiw, Joseph Malkowski, John Malloy, Jesse Colon, and John James, Jr., all charged elsewhere, burglarized the Ackley & Son Sporting Goods store, a federally licenced firearms dealer, located at 311 West Main Street in Westfield, Pennsylvania, in the Middle District of Pennsylvania, stole approximately 188 firearms and ammunition from the gun shop, transported the stolen firearms and ammunition to Philadelphia, where they sold the firearms for profit.

2. From on or about February 8, 2005, to on or about February 14, 2005, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**EHAB DARWISH,
a/k/a “Abe,”
a/k/a “Ihab Darwish,”
a/k/a “Oscar,”**

knowingly received, possessed, and bartered approximately 150 firearms stolen from Ackley & Son Sporting Goods store on or about January 29, 2005, which had been shipped and transported in interstate commerce before they were stolen, knowing and having reasonable cause to believe the firearms were stolen.

In violation of Title 18, United States Code, Section 922(j).

COUNT SIX

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraph 1 set forth in Count Five of this indictment is realleged here.
2. From on or about February 8, 2005, to in or around March 2005, in

Philadelphia, in the Eastern District of Pennsylvania, defendant

**EHAB DARWISH,
a/k/a “Abe,”
a/k/a “Ihab Darwish,”
a/k/a “Oscar,”**

knowingly used and carried a firearm during and in relation to a drug trafficking crime for which he may be prosecuted in a court of the United States, that is, possession with intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

In violation of Title 18, United States Code, Section 924(c)(1).

COUNT SEVEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraph 1 set forth in Count Five of this indictment is realleged here.

2. On or about February 8, 2005, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**EHAB DARWISH,
a/k/a “Abe,”
a/k/a “Ihab Darwish,”
a/k/a “Oscar,”**

knowingly possessed approximately 150 firearms stolen from the Ackley and Son Sporting Goods store, which had the serial numbers removed, obliterated, and altered, and had been shipped and transported in interstate and foreign commerce.

In violation of Title 18, United States Code, Sections 922(k) and 924(a)(1)(B).

COUNT EIGHT

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraph 1 set forth in Count Five of this indictment is realleged here.
2. From on or about February 8, 2005, to on or about November 7, 2007, in

Philadelphia, in the Eastern District of Pennsylvania, defendant

**EHAB DARWISH,
a/k/a “Abe,”
a/k/a “Ihab Darwish,”
a/k/a “Oscar,”**

willfully engaged in the business of dealing in firearms without being licensed to do so under the provisions of Chapter 44, Title 18, United States Code.

In violation of Title 18, United States Code, Sections 922(a)(1)(A), 924(a)(1)(D).

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 21, United States Code, Sections 846 and 841(a)(1), set forth in this indictment, defendants

**EHAB DARWISH,
a/k/a “Abe,”
a/k/a “Ihab Darwish,”
a/k/a “Oscar,” and
WAEAL MASAD**

shall forfeit to the United States of America:

(a) any property used or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such offenses; and

(b) any property constituting, or derived from, proceeds obtained directly or indirectly from the commission of such offenses.

2. If any of the property, subject to forfeiture, as a result of any act or omission of the defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with a third person;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be

subdivided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) to seek forfeiture of any other property of the defendants up to the

value of the property subject to forfeiture.

All pursuant to Title 21, United States Code, Section 853.

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

As a result of the violations of Title 18, United States Code, Sections 922(a)(1)(A), 922(j), and 922(k), and 924(c), set forth in this indictment, defendant

**EHAB DARWISH,
a/k/a “Abe,”
a/k/a “Ihab Darwish,”
a/k/a “Oscar,”**

shall forfeit to the United States of America the firearms involved in the commission of such offenses.

All pursuant to Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 924(d).

A TRUE BILL:

GRAND JURY FOREPERSON

**PATRICK L. MEEHAN
UNITED STATES ATTORNEY**